

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

DIANA EMMA GARCIA
53029 Cressida Street
Lake Elsinore, CA 92532

Registered Nurse License No. 677937

Respondent

Case No. 2011-845

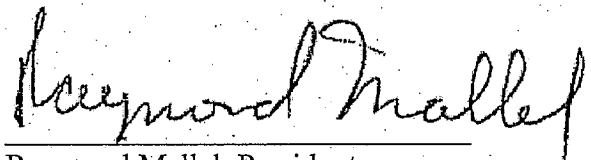
OAH No. 2011060957

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **December 6, 2012.**

IT IS SO ORDERED **November 6, 2012.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

12 **DIANA EMMA GARCIA**
13 **53029 Cressida Street**
14 **Lake Elsinore, CA 92532**
Registered Nurse License No. RN 677937

15 Respondent.

Case No. 2011 845

OAH No. 2011060957

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the
21 Board of Registered Nursing. She brought this action solely in her official capacity and is
22 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
23 Rita M. Lane, Deputy Attorney General.

24 2. Respondent Diana Emma Garcia is represented in this proceeding by attorney Adam
25 B. Brown, of the Law Offices of Brown & Brown, whose address is: 3848 Carson Street, Suite
26 206, Torrance, California 90503 ((310) 792-1315).

27 3. On or about April 19, 2006, the Board of Registered Nursing issued Registered Nurse
28 License No. RN 677937 to Diana Emma Garcia (Respondent). The Registered Nurse License

1 was in full force and effect at all times relevant to the charges brought in Accusation No. 2011
2 845 and will expire on October 31, 2013, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2011 845 was filed before the Board of Registered Nursing (Board),
5 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
6 and all other statutorily required documents were properly served on Respondent on April 13,
7 2011. Respondent timely filed her Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 2011 845 is attached as Exhibit A and incorporated herein
9 by reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 2011 845. Respondent has also carefully read, fully
13 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
14 Order.

15 7. Respondent is fully aware of her legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
17 the witnesses against her; the right to present evidence and to testify on her own behalf; the right
18 to the issuance of subpoenas to compel the attendance of witnesses and the production of
19 documents; the right to reconsideration and court review of an adverse decision; and all other
20 rights accorded by the California Administrative Procedure Act and other applicable laws.

21 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 CULPABILITY

24 9. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 2011 845.

26 10. Respondent agrees that her Registered Nurse License is subject to discipline and she
27 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

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CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. RN 677937 issued to Respondent Diana Emma Garcia is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions.

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1 **Severability Clause.** Each condition of probation contained herein is a separate and
2 distinct condition. If any condition of this Order, or any application thereof, is declared
3 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
4 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
5 and enforceable to the fullest extent permitted by law.

6 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and
7 detailed account of any and all violations of law shall be reported by Respondent to the Board in
8 writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with
9 this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within
10 45 days of the effective date of the decision, unless previously submitted as part of the licensure
11 application process.

12 **Criminal Court Orders:** If Respondent is under criminal court orders, including
13 probation or parole, and the order is violated, this shall be deemed a violation of these probation
14 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

15 2. **Comply with the Board's Probation Program.** Respondent shall fully comply with
16 the conditions of the Probation Program established by the Board and cooperate with
17 representatives of the Board in its monitoring and investigation of the Respondent's compliance
18 with the Board's Probation Program. Respondent shall inform the Board in writing within no
19 more than 15 days of any address change and shall at all times maintain an active, current license
20 status with the Board, including during any period of suspension.

21 Upon successful completion of probation, Respondent's license shall be fully restored.

22 3. **Report in Person.** Respondent, during the period of probation, shall appear in
23 person at interviews/meetings as directed by the Board or its designated representatives.

24 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
25 practice as a registered nurse outside of California shall not apply toward a reduction of this
26 probation time period. Respondent's probation is tolled, if and when she resides outside of
27 California. Respondent must provide written notice to the Board within 15 days of any change of

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1 residency or practice outside the state, and within 30 days prior to re-establishing residency or
2 returning to practice in this state.

3 Respondent shall provide a list of all states and territories where she has ever been licensed
4 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
5 information regarding the status of each license and any changes in such license status during the
6 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
7 license during the term of probation.

8 **5. Submit Written Reports.** Respondent, during the period of probation, shall submit
9 or cause to be submitted such written reports/declarations and verification of actions under
10 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
11 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
12 Respondent shall immediately execute all release of information forms as may be required by the
13 Board or its representatives.

14 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
15 state and territory in which she has a registered nurse license.

16 **6. Function as a Registered Nurse.** Respondent, during the period of probation, shall
17 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
18 6 consecutive months or as determined by the Board.

19 For purposes of compliance with the section, "engage in the practice of registered nursing"
20 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
21 non-direct patient care position that requires licensure as a registered nurse.

22 The Board may require that advanced practice nurses engage in advanced practice nursing
23 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

24 If Respondent has not complied with this condition during the probationary term, and
25 Respondent has presented sufficient documentation of her good faith efforts to comply with this
26 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
27 extension of Respondent's probation period up to one year without further hearing in order to

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1 comply with this condition. During the one year extension, all original conditions of probation
2 shall apply.

3 **7. Employment Approval and Reporting Requirements.** Respondent shall obtain
4 prior approval from the Board before commencing or continuing any employment, paid or
5 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
6 performance evaluations and other employment related reports as a registered nurse upon request
7 of the Board.

8 Respondent shall provide a copy of this Decision to her employer and immediate
9 supervisors prior to commencement of any nursing or other health care related employment.

10 In addition to the above, Respondent shall notify the Board in writing within seventy-two
11 (72) hours after she obtains any nursing or other health care related employment. Respondent
12 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
13 separated, regardless of cause, from any nursing, or other health care related employment with a
14 full explanation of the circumstances surrounding the termination or separation.

15 **8. Supervision.** Respondent shall obtain prior approval from the Board regarding
16 Respondent's level of supervision and/or collaboration before commencing or continuing any
17 employment as a registered nurse, or education and training that includes patient care.

18 Respondent shall practice only under the direct supervision of a registered nurse in good
19 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
20 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
21 approved.

22 Respondent's level of supervision and/or collaboration may include, but is not limited to the
23 following:

24 (a) Maximum - The individual providing supervision and/or collaboration is present in
25 the patient care area or in any other work setting at all times.

26 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
27 care unit or in any other work setting at least half the hours Respondent works.

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1 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
2 person communication with Respondent at least twice during each shift worked.

3 (d) Home Health Care - If Respondent is approved to work in the home health care
4 setting, the individual providing supervision and/or collaboration shall have person-to-person
5 communication with Respondent as required by the Board each work day. Respondent shall
6 maintain telephone or other telecommunication contact with the individual providing supervision
7 and/or collaboration as required by the Board during each work day. The individual providing
8 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
9 patients' homes visited by Respondent with or without Respondent present.

10 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any
11 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
12 or for an in-house nursing pool.

13 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
14 registered nursing supervision and other protections for home visits have been approved by the
15 Board. Respondent shall not work in any other registered nursing occupation where home visits
16 are required.

17 Respondent shall not work in any health care setting as a supervisor of registered nurses.
18 The Board may additionally restrict Respondent from supervising licensed vocational nurses
19 and/or unlicensed assistive personnel on a case-by-case basis.

20 Respondent shall not work as a faculty member in an approved school of nursing or as an
21 instructor in a Board approved continuing education program.

22 Respondent shall work only on a regularly assigned, identified and predetermined
23 worksite(s) and shall not work in a float capacity.

24 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
25 request documentation to determine whether there should be restrictions on the hours of work.

26 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and
27 successfully complete a course(s) relevant to the practice of registered nursing no later than six
28 months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

11. **Cost Recovery.** Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$6,124.75. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than three months prior to the end of the probation term.

If Respondent has not complied with this condition during the probationary term, and Respondent has presented sufficient documentation of her good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation will apply.

12. **Violation of Probation.** If Respondent violates the conditions of her probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation) of Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

13. **License Surrender.** During Respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender her license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing.

1 Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be
2 subject to the conditions of probation.

3 Surrender of Respondent's license shall be considered a disciplinary action and shall
4 become a part of Respondent's license history with the Board. A registered nurse whose license
5 has been surrendered may petition the Board for reinstatement no sooner than the following
6 minimum periods from the effective date of the disciplinary decision:

7 (1) Two years for reinstatement of a license that was surrendered for any reason other
8 than a mental or physical illness; or

9 (2) One year for a license surrendered for a mental or physical illness.

10 14. **Therapy or Counseling Program.** Respondent, at her expense, shall participate in
11 an on-going counseling program until such time as the Board releases her from this requirement
12 and only upon the recommendation of the counselor. Written progress reports from the counselor
13 will be required at various intervals.

14 15. **Mental Health Examination.** Respondent shall, within 45 days of the effective date
15 of this Decision, have a mental health examination including psychological testing as appropriate
16 to determine her capability to perform the duties of a registered nurse. The examination will be
17 performed by a psychiatrist, psychologist or other licensed mental health practitioner approved by
18 the Board. The examining mental health practitioner will submit a written report of that
19 assessment and recommendations to the Board. All costs are the responsibility of Respondent.
20 Recommendations for treatment, therapy or counseling made as a result of the mental health
21 examination will be instituted and followed by Respondent.

22 If Respondent is determined to be unable to practice safely as a registered nurse, the
23 licensed mental health care practitioner making this determination shall immediately notify the
24 Board and Respondent by telephone, and the Board shall request that the Attorney General's
25 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
26 practice and may not resume practice until notified by the Board. During this period of
27 suspension, Respondent shall not engage in any practice for which a license issued by the Board
28 is required, until the Board has notified Respondent that a mental health determination permits

1 Respondent to resume practice. This period of suspension will not apply to the reduction of this
2 probationary time period.

3 If Respondent fails to have the above assessment submitted to the Board within the 45-day
4 requirement, Respondent shall immediately cease practice and shall not resume practice until
5 notified by the Board. This period of suspension will not apply to the reduction of this
6 probationary time period. The Board may waive or postpone this suspension only if significant,
7 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
8 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
9 Only one such waiver or extension may be permitted.

10 ACCEPTANCE

11 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
12 discussed it with my attorney, Adam B. Brown. I understand the stipulation and the effect it will
13 have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary
14 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
15 of the Board of Registered Nursing.

16
17 DATED: 05/23/2012

Diana E. Garcia
DIANA EMMA GARCIA
Respondent

19
20 I have read and fully discussed with Respondent Diana Emma Garcia the terms and
21 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
22 I approve its form and content.

23 DATED: 5-23-12

Adam B. Brown
ADAM B. BROWN
Attorney for Respondent

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27 ///

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: 5-27-12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General


RITA M. LANE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2011 845

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 RITA M. LANE
Deputy Attorney General
4 State Bar No. 171352
110 West "A" Street, Suite 1100
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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2011-845**

12 **DIANA EMMA GARCIA**
13 **53029 Cressida Street**
14 **Lake Elsinore, CA 92532**

A C C U S A T I O N

15 **Registered Nurse License No. RN 677937**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about April 19, 2006, the Board of Registered Nursing issued Registered Nurse
24 License Number RN 677937 to Diana Emma Garcia (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on October 31, 2011, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

....

REGULATIONS

7. California Code of Regulations, title 16 (Regulation), section 1442 states:

As used in Section 2761 of the code, "gross negligence" includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

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1 8. Regulation section 1443 states, in pertinent part:

2 As used in Section 2761 of the code, "incompetence" means the lack of
3 possession of or the failure to exercise that degree of learning, skill, care and
4 experience ordinarily possessed and exercised by a competent registered nurse as
described in Section 1443.5.

5 9. Regulation 1443.5 states, in pertinent part:

6 A registered nurse shall be considered to be competent when he/she
7 consistently demonstrates the ability to transfer scientific knowledge from social,
biological and physical sciences in applying the nursing process, as follows:

8 (1) Formulates a nursing diagnosis through observation of the client's
9 physical condition and behavior, and through interpretation of information
obtained from the client and others, including the health team.

10 (2) Formulates a care plan, in collaboration with the client, which ensures
11 that direct and indirect nursing care services provide for the client's safety,
comfort, hygiene, and protection, and for disease prevention and restorative
measures.

12 (3) Performs skills essential to the kind of nursing action to be taken,
13 explains the health treatment to the client and family and teaches the client and
family how to care for the client's health needs.

14 (4) Delegates tasks to subordinates based on the legal scopes of practice of
15 the subordinates and on the preparation and capability needed in the tasks to be
delegated, and effectively supervises nursing care being given by subordinates.

16 (5) Evaluates the effectiveness of the care plan through observation of the
17 client's physical condition and behavior, signs and symptoms of illness, and
reactions to treatment and through communication with the client and health team
18 members, and modifies the plan as needed.

19 (6) Acts as the client's advocate, as circumstances require, by initiating
20 action to improve health care or to change decisions or activities which are against
the interests or wishes of the client, and by giving the client the opportunity to
make informed decisions about health care before it is provided.

21
22 COSTS

23 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
24 administrative law judge to direct a licentiate found to have committed a violation or violations of
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26 enforcement of the case.

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FACTS

11. On April 18, 2008, Patient A, a 54 year old male, was hospitalized at Fountain Valley Regional Hospital with multiple chronic health issues. Exploratory surgery revealed that Patient A was suffering from an acute perforated gastric ulcer and carcinoma of the stomach. Patient A underwent two additional surgeries regarding these issues and was recovering in the ICU on April 28, 2008.

12. On April 30, 2008, at approximately 1500 hours, Patient A was transferred from the ICU to the medical/surgical floor at Fountain Valley Regional Hospital.

13. On May 1, 2008, Respondent was working as a registered nurse at Fountain Valley Regional Hospital and was assigned to provide nursing care to Patient A.

14. On May 1, 2008, at 0750 hours, Respondent performed an initial assessment of Patient A, however, her assessment was incomplete as she did not assess Patient A's gastrointestinal status.

15. On May 1, 2008, Patient A's Medication Administration Record showed a doctor's order for "Phenytoin 100mg/4ml PO SUSP [Dilantin] 1 x 4ml [25mg/ml] GT every 8 hours."

16. The Pyxis report for May 1, 2008, at 1728 hours, shows that Respondent removed a Dilantin 100mg/4 ml oral suspension syringe from the Pyxis machine to administer to Patient A. Respondent told Board investigators that the Dilantin oral suspension medication was orange, thick like cough syrup, and prior to this, she had not seen this type of medication.

17. On May 1, 2008 at approximately 1735 hours, Respondent began to administer the Dilantin oral suspension to Patient A through his IV. Patient A complained right away of burning while receiving the medication. Respondent disconnected the Dilantin syringe from the IV and connected another syringe with clear fluid to Patient A's IV. After Respondent injected the clear fluid, she reconnected the Dilantin syringe and administered the remaining Dilantin medication through Patient A's IV. Patient A complained that the lights hurt his eyes after receiving the Dilantin. Within minutes of receiving the Dilantin, Patient A became unresponsive, went into cardiopulmonary arrest and a code blue was initiated. Patient A was intubated, put on a ventilator and transferred to the ICU where he remained unresponsive.

1 18. On May 12, 2008, Patient A had a tracheostomy and a feeding tube was inserted.

2 19. On May 18, 2008, Patient A was transferred to a long-term care facility where he
3 later expired.

4 **FIRST CAUSE FOR DISCIPLINE**

5 (Unprofessional Conduct: Incompetence)

6 20. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
7 Code section 2761(a)(1), on the grounds that on May 1, 2008, while Respondent was working as
8 a registered nurse at Fountain Valley Regional Hospital, she was incompetent in her care of
9 Patient A. The circumstances are set forth in detail in paragraphs 11 through 19, and as follows:

10 a. Respondent was incompetent when she administered Dilantin oral suspension
11 medication through Patient A's IV.

12 b. Respondent was incompetent when she failed to verify Patient A's medication order
13 for Dilantin oral suspension. Respondent admitted that she was confused about the order,
14 unfamiliar with the colored medication, and had questions on how to administer Dilantin oral
15 suspension by IV.

16 c. Respondent was incompetent when she failed to verify the correct route of
17 administering Dilantin oral suspension medication. Clarification was necessary in light of the
18 fact that there were doctor's orders for Patient A to receive nothing by mouth, and the order for
19 Dilantin was for an oral suspension syrup. Respondent should have realized this and been alerted
20 to question the accuracy of the doctor's order.

21 d. Respondent was incompetent when she threw away the syringe she used to administer
22 Dilantin to Patient A. Due to the fact that a patient had an adverse reaction to medication and
23 went into cardiac arrest, a competent nurse would keep the medication syringes for investigation
24 and clarification.

25 e. Respondent was incompetent when she failed to assess Patient A's gastrointestinal
26 status during her initial assessment of Patient A on May 1, 2008.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number RN 677937, issued to Diana Emma Garcia;

2. Ordering Diana Emma Garcia to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: _____

4/13/11

Louise R. Bailey

LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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